

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

| | | |
|-------------------|---|-------------------------------|
| SALLY ANN MOORE, |) | |
| |) | |
| Plaintiff, |) | Case No. 4:05-cv-55 |
| |) | |
| v. |) | Honorable Robert Holmes Bell |
| |) | |
| JAMES F. YARBRO, |) | |
| |) | |
| Defendant. |) | |
| <hr/> |) | |
| PAUL E. SHAMBLIN, |) | |
| |) | |
| Plaintiff, |) | Case No. 4:05-cv-56 |
| |) | |
| v. |) | |
| |) | |
| JAMES F. YARBRO, |) | |
| |) | <u>ORDER OF REMAND</u> |
| Defendant. |) | |
| <hr/> |) | |

By report and recommendation entered June 7, 2005, the magistrate judge recommended that both of the captioned cases be remanded to the Allegan County Circuit Court. The magistrate judge concluded that each case was a civil proceeding for the issuance of a personal protection order pursuant to Michigan statute. The magistrate judge concluded that these cases are not removable pursuant to 28 U.S.C. § 1441, as the cases do not fall within either the court's federal question or diversity jurisdiction. Defendant has now filed objections to the report and

recommendation of the magistrate judge, which this court must afford *de novo* review. FED. R. CIV. P. 72(b).

This court's *de novo* review of the objections indicates that they are meritless. Mr. Yarbro persists in arguing the merits of his case and in expressing his dissatisfaction with the orders of the state circuit court. He has ignored completely, however, the utter lack of subject-matter jurisdiction pointed out by the magistrate judge. Mr. Yarbro's "fear" that he will not be afforded a fair trial is not a basis for removal of a state civil action to the federal district court. Accordingly:

IT IS ORDERED that the objections of defendant to the report and recommendation of the magistrate judge (docket # 8) be and hereby are OVERRULED and that the report and recommendation is hereby ADOPTED as the opinion of the court.

IT IS FURTHER ORDERED that the captioned cases be and they hereby are REMANDED to the Allegan County Circuit Court for lack of subject-matter jurisdiction.

Date: June 21, 2005

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
CHIEF UNITED STATES DISTRICT JUDGE